

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2746

Introduced by Assembly Member Blakeslee

February 24, 2006

An act to ~~amend Section 9022 of the Health and Safety~~ *add Chapter 4.6 (commencing with Section 65965) to Division 1 of Title 7 of the Government Code*, relating to ~~public cemetery districts~~ *natural resources*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2746, as amended, Blakeslee. ~~District board of directors: conflict of interest: incompatible offices.~~ *Natural resources: mitigation for adverse impacts.*

Existing law authorizes, under various provisions of law, certain state agencies or entities to acquire fee title in land or conservation or open-space easements from property owners to mitigate any adverse impact resulting from the development of a project or facility.

This bill would, notwithstanding any other provision of law, allow a state or local public agency to authorize a nonprofit organization to hold title to and manage an interest in real property that the state or local public agency requires a property owner to deed to the agency to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, provided the nonprofit organization meets certain requirements.

~~Existing law provides for the formation and appointment of members of the governing boards of community services districts and the board of trustees of public cemetery districts. Existing law, with certain exceptions, generally requires public officers to avoid conflicts~~

~~of interest and prohibits an officer from assuming incompatible offices.~~

~~This bill would provide that, notwithstanding any provision of law to the contrary, it does not constitute a conflict of interest or an incompatible office for a member of the governing board of a community services district which comprises all or part of a public cemetery district to also serve as a member of the board of trustees of the public cemetery district.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Numerous state and local laws regulate agricultural lands,*
4 *wildlife habitat, wetlands, forests, cultural and historic*
5 *resources, and other natural resources.*

6 *(b) A state or local public agency has the authority to review a*
7 *proposal for the development of a project or facility and to issue*
8 *a permit authorizing the project or facility to be developed.*

9 *(c) A state or local public agency has the authority to impose*
10 *conditions upon the issuance of a permit to mitigate any adverse*
11 *impact caused by a permitted activity on lands and resources,*
12 *including, but not limited to, agricultural lands, wildlife habitat,*
13 *wetlands, endangered species habitat, open-space areas, and*
14 *cultural or historic resources.*

15 *(d) The conditions may include the conveyance of an interest*
16 *in real property, including, but not limited to, fee title in land or*
17 *a conservation or open-space easement, to mitigate any adverse*
18 *impact of the permitted activity.*

19 *(e) It is the intent of the Legislature in enacting this act to*
20 *clarify existing law that a state or local public agency may*
21 *authorize a nonprofit organization to hold an interest in real*
22 *property that a property owner is required to deed to the agency*
23 *to mitigate any adverse impact upon natural resources resulting*
24 *from the development of a project or facility.*

25 *SEC. 2. Chapter 4.6 (commencing with Section 65965) is*
26 *added to Division 1 of Title 7 of the Government Code, to read:*

CHAPTER 4.6. MITIGATION

65965. (a) For purposes of this section, the following definitions apply:

(1) “Direct protection” means the protection and preservation of natural lands or resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or outdoor recreational areas.

(2) “Stewardship” encompasses the range of activities involved in controlling and managing for conservation purposes a property or a conservation or open-space easement, as defined by the terms of the easement, and its attendant resources.

(b) Notwithstanding any other provision of law, if a state or local public agency requires a property owner to deed to the agency an interest in real property to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, the state or local public agency may authorize a nonprofit organization to hold title to and manage that interest in real property, provided that the nonprofit organization is all of the following:

(1) Exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(2) A “qualified organization” as defined in Section 170(h)(3) of the Internal Revenue Code.

(3) An organization that has as its principal purpose and activity the direct protection or stewardship of natural land or resources, or cultural or historic resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(c) The recorded instrument that places title with a nonprofit organization pursuant to subdivision (b) shall include a provision, that if the state or local public agency that authorized the nonprofit organization to hold the title, or its successor agency, determines that the interest in real property that is held by the nonprofit organization is not being held or managed for conservation purposes in the manner specified in that instrument, the interest in real property shall revert to the state or that local public agency.

1 SECTION 1. ~~Section 9022 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~9022. (a) Each person appointed by a board of supervisors to~~
4 ~~be a member of a board of trustees shall be a voter in the district.~~

5 ~~(b) All trustees shall exercise their independent judgment on~~
6 ~~behalf of the interests of the residents, property owners, and the~~
7 ~~public as a whole in furthering the purposes and intent of this~~
8 ~~part. The trustees shall represent the interests of the public as a~~
9 ~~whole and not solely the interests of the board of supervisors that~~
10 ~~appointed them.~~

11 ~~(c) Notwithstanding any provision of law to the contrary, it is~~
12 ~~not a conflict of interest for a member of the governing board of~~
13 ~~a community services district which comprises all or part of a~~
14 ~~public cemetery district to also serve as a member of the board of~~
15 ~~trustees of the public cemetery district, nor are the two public~~
16 ~~offices incompatible.~~